IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 5650 of 1999

For Approval and Signature:

THE HON'BLE MR.JUSTICE SHARAD D.DAVE

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 of any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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STATE ROAD TRANSPORT KARMACHARI MANDAL MEHSANA - Petitioner(s)

Versus

CHAIRMAN AND MANAGING DIRECTORGSRTC & 2 - Respondent(s)

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Appearance :

MR BHARAT JANI for Petitioner No(s).: 1.
MRS VASAVDATTA BHATT for Respondent No(s).: 1,2.

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CORAM :THE HON'BLE MR.JUSTICE SHARAD D.DAVE

Date : 21/06/2005

CAV JUDGMENT

1. In this petition under Article 226 of the Constitution of India, the petitioner has prayed for appropriate writ, order or direction quashing and setting aside the impugned decision / action of not extending the benefit of two increments to the Badli workmen of Mahesana Division (as per list at Annexure-D

in the compilation) as per the term of the labour settlement effective from 1.8.1992 and to declare it to be violative of Articles 14 and 16 of the Constitution and the provisions of Industrial Disputes Act, 1947.

2. It appears from the record that the petitioner union is affiliated with Gujarat Rajya S.T.Karmachari Mahamandal and is operating in Mahesana division. It is the case of the petitioner that the petitioner is also given recognition for Mahesana division by the respondents on 12.3.73 and its registration number is G-1020. It is the case of the petitioner that certain terms of the settlement have been finalised which came into effect from 1.8.92 and accordingly respondent no.1 has issued circular no.7 dated 23.4.97 to all the divisional Managers of various divisions of the Corporation, by which the respondent no.1 issued necessary instructions in respect of grant of two increments in the pay scales of the Class III and Class IV employees / workmen and officers, who were permanent and on the time scale as on 31.7.92 and are continuing in service. It is the case of the petitioner that the said class of employees were granted the benefit of two increments in their basic pay as on 1.4.97 and the said monetary benefit was ordered to be given with immediate effect and no such benefit was extended to the part-time employees and Badli workers, who were in continuous service and on permanent basis. It is the case of the petitioner that ultimately, the respondent corporation has agreed to give the benefit of two increments to part-time and daily rated workmen, who are serving with the respondent corporation on permanent basis and the circular to that effect was issued on 12.1.99, however, the benefit was given only with the prospective effect i.e. with effect from

1.6.98. and no payment for prior period.

3. Mr.B.G.Jani, learned advocate appearing for the petitioner, has submitted that despite certain terms of the settlement have been finalised which came into effect from 1.8.1992 and respondent no.1 has also issued the circular No.7 dated 23.4.1997 to all the Divisional Managers of various divisions of the Corporation, no such benefit was extended to the part-time employees and Badli workers who were in continuous service and on permanent basis. He submitted that the respondent Corporation has agreed to give the benefit of two increments to part-time and daily rated workmen and the circular to that effect was issued on 12.1.1999 extending the benefit with effect from 1.6.1998, but the benefit was extended only to the part-time employees. He submitted that the action of the respondent Corporation is discriminatory since the benefit of the aforesaid circular is not extended to the Badli workers. He further submitted that, as a matter of fact, Badli workers are regular employees and most of them are working all 30 days in a month, and, therefore, they cannot be deprived of the benefit of two increments which is given to all other workmen including part-time and daily rated workmen except the present petitioner. It is, therefore, requested to allow the present petition.

4. On the other-hand, Ms.Vasudatta Bhatt, learned advocate appearing on behalf of the respondent Corporation has opposed this petition and submitted that the petitioner is not entitled to the benefit of two increments since they are Badli workers. She submitted that the benefit of two increments in the basic pay is available to all those employees / officers who are on the time scale on 31.7.1992 and are continuing in service. She

further submitted that clause (2)of the settlement is not applicable to the present petitioner. It is, therefore, requested to dismiss the present petition.

5. Heard the learned advocates for the parties.

6. It appears from the record that the recognised union has placed the demand on behalf of class III and Class IV employees of the respondent Corporation to grant two increments in their basic pay and this aspect is reflected in Circular No.7 dated 23.4.1997. It is not in dispute that it is specifically mentioned in Clause (2) of the Settlement which came into effect from 1.8.1992 that two increments in the basic pay payable on 1.4.1997 to all those employees / officers who are on the time scale on 31.7.1992 and are continuing in service shall be paid with immediate effect. It is also not in dispute that the settlement is applicable only to the employees / officers who were on time scale as on 31.7.1992 and continued to be in service. It appears from the record that thereafter the respondent Corporation issued the Circular No.1643 dated 12.1.1999 extending the benefit of two increments to part-time and daily rated workmen with effect from 1.6.1998. It is pertinent to note that it is the contention of the learned advocate appearing for the petitioner that there are about 805 Badli workers and all of them have completed 240 days and more and many of them are in the employment even from 1.8.1992 or immediately thereafter. When the benefit of two increments is extended to the part-time and daily rated employees with effect from 1.6.1998, there is no justification on the part of the respondent corporation to deny the said benefit to the Badli workers. Even, Ms.Vasudatta Bhatt, learned advocate appearing on behalf of the respondent Corporation, has failed to show

this Court as to how the said benefit is not extended to the Badli workers. In my view, when the benefit of two increments is given to all other workmen including part-time and daily rated workmen, the Badli workers, copy of the list showing the names of the said Badli workers is produced at Annexure-D in the compilation, cannot be deprived of the benefit of two increments. Under the circumstances, I am of the considered opinion that the action of the respondents is discriminatory, and, therefore, the same is violative of Article 14 of the Constitution of India.

7. In view of what has been stated above, this petition succeeds and the same is allowed. The respondent Corporation is directed to extend the benefit of two increments to the Badli workmen of Mahesana Division (as per list at Annexure-D) with effect from 1.6.1998 and as per the circular No.1643 dated 12.1.1999. Rule is made absolute to the aforesaid extent with no order as to costs.

(Sharad D.Dave,J)

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